



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT: REBER

ATTY. DOCKET NO.: HOB-P-04-001

SERIAL NO.: 10/771,890

GROUP ART UNIT: 3625

DATE FILED: July 24, 2006

EXAMINER: Allen

INVENTION: "A SYSTEM AND A METHOD FOR LOCATING AN ITEM OFFERED FOR  
SALE BY A MERCHANT"

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPELLANT APPEAL BRIEF TRANSMITTAL LETTER**

SIR/MADAM:

Appellant submits herewith Appellant's Appeal Brief in support of the Notice of Appeal filed June 28, 2006. Appellant encloses a check for \$250.00 for submission of this Appeal Brief. Appellant authorizes the Patent Office to charge any fees that may be due and owing or to credit any overpayment to Deposit Account No. 50-0595. A duplicate copy of this sheet is enclosed for this purpose.

Respectfully submitted,

(Req. No. 35,018)

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**CERTIFICATE OF MAILING**

I hereby certify that this APPEAL BRIEF with APPENDIX CONTAINING CLAIMS 1-20, EVIDENCE APPENDIX CONTAINING EXHIBITS A, B, C and D, RELATED PROCEEDINGS APPENDIX, and check for \$250.00 are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, Alexandria, VA 22313 on July 28, 2006.

A handwritten signature in black ink, appearing to read "BRIAN M. MATTSON".

Brian M. Mattson (Reg. No. 35,018)



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPELLANT: Reber

ATTY. DOCKET NO.: HOB-P-04-001

SERIAL NO.: 10/771,890

GROUP ART UNIT: 3625

DATE FILED: February 4, 2004

EXAMINER: Allen

INVENTION: "A SYSTEM AND A METHOD FOR LOCATING AN ITEM OFFERED  
FOR SALE BY A MERCHANT"

Mail Stop Appeal Brief-Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**APPEAL BRIEF**

SIR/MADAM:

This Appeal Brief is submitted in support of the Notice of Appeal filed on June 28, 2006. The Appeal was taken from the Final Rejection dated May 18, 2006.

**I. REAL PARTY IN INTEREST**

Hobie Reber is the real party in interest in this Appeal.

**II. RELATED APPEALS AND INTERFERENCES**

No other appeals or interferences are known to Appellant or Appellant's legal representative which will directly affect, be directly affected by, or have a bearing on the Board's decision in this appeal.

**III. STATUS OF CLAIMS**

Claims 1-20 are pending in this patent application. A copy of the claims is appended hereto in the Claims Appendix. Claims 1-20 were finally rejected by the Examiner in a Final Rejection dated

May 18, 2006 and are hereby on appeal. The Final Rejection is appended hereto as Exhibit A of the Evidence Appendix.

**IV. STATUS OF AMENDMENTS**

All amendments have been entered in this patent application. No amendments to the claims were made after the Final Rejection.

**V. SUMMARY OF CLAIMED SUBJECT MATTER**

The present invention provides a system and a method to identify available products offered for sale by a merchant. More specifically, the system provides information about the products and/or services offered for sale by the merchant located within a multi-dealer retail establishment. Further, the system may be accessed from any computer terminal which affords network accessible capabilities, such as, for example, internet, intranet and/or the like. Still further, the system and method accesses an inventory of a merchant to locate, for example, an availability and/or a price of the product and/or service offered for sale by the merchant.

Independent Claim 1 defines a system for determining a location of an item offered for sale by a merchant in a multi-dealer retail establishment. Claim 1 requires a computer network and a database associated with the computer network. Figure 1 illustrates a system 10 having a database 14 that may be accessed through a website 18. (Page 10, lines 23-25).

Additionally, Claim 1 requires means for inputting merchant

information into the database wherein the merchant information is associated with a location of the merchant in the multi-dealer retail establishment. Further, Claim 1 requires means for inputting item information in the merchant information wherein the item information is associated with a description of the item and a price of the item. A merchant may create a merchant account 34 via the website 18 and input merchant information, which may include the location of the merchant within a multi-dealer retail establishment. (Page 13, lines 13-18). After creating a merchant account 34, the merchant may create a product list 40 and enter pictures and/or descriptions of products 44 before storing information in the database 14. (Page 14 lines 16-18).

Still further, Claim 1 requires a computer terminal located in the multi-dealer retail establishment wherein the computer terminal connects to the computer network and enables access to the item information and the merchant information. The system may be searchable from a local terminal. (Page 6, lines 29-32). The user may access the website 18 of the system 10 from the computer terminal having the network accessible capabilities with the user interface 22 and/or may log onto the website 18 via step 72. (Page 17, lines 6-9).

Moreover, Claim 1 requires that the computer terminal is remote with respect to the database and determines the location of the item in the multi-dealer retail establishment by searching the

item information in the database wherein the item information is associated with the location of the merchant in the multi-dealer retail establishment. A user or merchant may remotely access the website 18 and the database 14 from a computer terminal, such as, for example, a laptop computer, a personal digital assistant, a cellular telephone and/or the like. (Page 12, lines 19-22). A user may also access a map in a database 14 and view the location of the selected item and the merchant offering the selected item for sale via step 158. (Page 23, lines 23-26).

Independent Claim 8 defines a method for locating an item offered for sale by a merchant in a multi-dealer retail establishment by a user wherein the merchant has a location within the multi-dealer retail establishment. Claim 8 requires the steps of providing a computer network and providing a database connected to the computer network. Figure 1 illustrates a system 10 having a database 14 that may be accessed through a website 18. (Page 10, lines 23-25). A user may access the website 18 of system 10 from the computer terminal having the network accessible capabilities with the user interface 22 and/or may log on to the website 18 via step 72. (Page 17, lines 6-9).

Additionally, Claim 8 requires that the database stores merchant information associated with the merchant and further wherein the merchant information has the location of the merchant within the multi-dealer retail establishment. Further, Claim 8

requires inputting a product list of the merchant into the merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant. A merchant may create a merchant account 34 via the website 18 and input merchant information which may include the location of the merchant within a multi-dealer retail establishment. (Page 13, lines 13-18). After creating a merchant account 34, the merchant may also create a product list 40 and enter pictures and/or descriptions of products 44 before storing information in the database 14. (Page 14 lines 16-26).

Still further, Claim 8 requires the step of providing a terminal in the multi-dealer retail establishment wherein the terminal accesses the database for displaying the merchant information of the merchant in the database via the computer network wherein the terminal is only accessible at the multi-dealer retail establishment. Moreover, Claim 8 requires the step of searching the product list in the merchant information based on the item information associated with the item. A user may search the system 10 from a computer terminal local to the multi-dealer retail establishment. (Page 6, lines 29-32). The system 10 may also include a user interface 22 which may allow the user to access the website 18 and/or the database 14. (Page 10, lines 23-25). The user may search the database 14 by entering item or merchant information on the website 18. (Page 18, lines 3-5). The website

18 may display item or merchant information from the database 14 corresponding to the user's query. (Page 18, lines 5-11). Further, a list of products in the database 14 which match the search criteria may be displayed by the website 18 on the computer terminal via step 92. (Page 19, lines 24-26).

Furthermore, Claim 8 requires the step of determining the location of the merchant in the multi-dealer retail establishment based on the merchant information associated with the item information in the product list wherein the terminal displays the location of the item in the multi-retail establishment based on the merchant information. Figure 4 illustrates a flowchart 120 of a method for a user to search the product lists of merchants and/or item information stored in the database 14 of the system 10. (Page 21, lines 12-15). A user may access a map of the multi-dealer retail establishment in the database 14 and view the location of the item and the merchant offering the selected item for sale via step 102. (Page 20, lines 19-22). Moreover, the user may obtain directions from the location of the user to the location of the merchant offering the selected item for sale via step 102. (Page 20, lines 22-25).

#### **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Would Claims 1, 2, 8-11, 13 and 18 have been anticipated by *Brunson* (U.S. Patent Publication No. 2001/0034664) under 35 U.S.C. §102(b)? See *Brunson* attached as Exhibit B of the Evidence

Appendix.

2. Would Claims 3-5, 7, 12, 14, 15, 17 and 19-20 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Brunson* in view of *Pugliese III et al.* (U.S. Patent Publication No. 2001/0044751, hereinafter "Pugliese")? See *Pugliese* attached as Exhibit C of the Evidence Appendix.

3. Would Claims 6 and 16 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Brunson* in view of *Crossman, Craig. "Look, Listen and Interact with Multimedia."* *Austin American Statesman* March 21, 1994, Page D6 (hereinafter "Look")? See *Look* attached as Exhibit D of the Evidence Appendix.

## **VII. ARGUMENT**

### **A. THE CITED REFERENCE AND REJECTIONS OF CLAIMS 1, 2, 8-11, 13 AND 18 UNDER 35 U.S.C. §102(b)**

Claims 1, 2, 8-11, 13 and 18 stand rejected under 35 U.S.C. §102(b) as being anticipated by *Brunson*.

Regarding Claims 1 and 2, the Examiner stated:

the limitations set forth in Claims 1 and 2 closely parallel the limitations of Claims 8 and 9. Claims 1 and 2 are thereby rejected under the same rationale.

The Examiner stated in the Final Rejection that regarding Claim 8, *Brunson* teaches:

providing a computer network (see at least:

abstract, Fig. 1);

providing a database connected to the computer network wherein the database stores merchant information associated with the merchant and further wherein the merchant information has the location of the merchant within the multi-dealer retail establishment (see at least: abstract, 0007, 0029, 0038, Fig. 1, 3-11);

inputting a product list of the merchant into the merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant (see at least: abstract, 0007, 0029, 0038);

providing a terminal in the multi-dealer retail establishment wherein the terminal access the database for displaying the merchant information of the merchant in the database via a computer network wherein the terminal is only accessible at the multi-dealer retail establishment (see at least: abstract, 0007, 0027, Fig. 1, 10-11);

searching the product list in the merchant information based on item information associated with the item (see at least: abstract).

determining the location of the merchant in the multi-dealer retail establishment based on the product list wherein the terminal displays the location of the item in the multi-retail establishment based on the merchant information (see at least: abstract, 007, 0035, 0038, Fig. 10-12).

Regarding Claims 9-11, the Examiner stated *Brunson* teaches:

(9) wherein the computer network is the internet (see at least: 0030);

(10) wherein the first access to the database is wireless (see at least: 0031);

(11) providing a remote server and storing the database on the remote server (see at least: Fig. 1).

Regarding Claim 13, the Examiner stated *Brunson* teaches:

wherein the first access to the database is from a remote computer terminal with respect to the database (see at least: abstract, Fig. 1).

Regarding Claim 18, the Examiner stated *Brunson* teaches:

wherein the item information includes geographic information associated with the item for sale by the merchant (see at least: abstract)

(See Final Rejection, Pages 2 and 3 of Exhibit A of the Evidence Appendix.)

**B. BRUNSON DOES NOT ANTICIPATE THE INVENTION DEFINED IN CLAIMS 1, 2, 8-11, 13 AND 18 UNDER 35 U.S.C. §102(b)**

With respect to the rejection of Claims 1, 2, 8-11, 13 and 18 under 35 U.S.C. §102(b) as being anticipated by *Brunson*, Appellant respectfully submits that the claims distinctly define the present invention from *Brunson* for the reasons that follow.

Independent Claim 1 requires a computer terminal located in the multi-dealer retail establishment wherein the computer terminal connects to the computer network and enables access to the item information and the merchant information. Further, Claim 1 requires means for inputting merchant information into the database wherein the merchant information is associated with a location of the merchant in the multi-dealer retail establishment. Still further, Claim 1 requires means for inputting item information in the merchant information wherein the item information is associated with a description of the item and a price of the item.

*Brunson* merely discloses a system for customers to interact with kiosks by entering search criteria to search for specific products or services. Further, the kiosk, upon receipt of the product/service information request, forwards the request to a

product/server database. Upon locating information pertaining to the requested product/service, the database forwards the results of the search to the kiosk.

Nowhere does *Brunson* disclose means for inputting merchant information into the database wherein the merchant information is associated with a location of the merchant in the multi-dealer retail establishment as required by Claim 1. Further, nowhere does *Brunson* disclose means for inputting item information wherein the item information is associated with a description of the item and a price of the item as required by Claim 1. On the contrary, *Brunson* merely discloses that the kiosks communicate with the necessary products/server databases to determine the availability, location, price, retailer, or the like, of the product/service. Therefore, *Brunson* does not disclose the novel elements required by Claim 1.

Under 35 U.S.C. §102(b), anticipation requires that a single reference discloses each and every element of Appellant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d. 1241, 1245 (Fed. Cir. 1986). Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial", and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

Since *Brunson* fails to disclose means for inputting merchant information into the database and means for inputting item information wherein the item information is associated with a description of the item and a price of the item as required by Claim 1, Appellant asserts that the rejection of Claim 1 under 35 U.S.C. §102(b) is improper and should be reversed.

Claim 2 requires the system of Claim 1 wherein the computer network is the internet. Nowhere does *Brunson* teach a system that has means for inputting merchant information into the database wherein the merchant information is associated with a location of the merchant in the multi-dealer retail establishment wherein the means utilize the internet. Nowhere does *Brunson* teach a system that has means for inputting item information in the merchant information wherein the item information is associated with a description of the item and a price of the item wherein the means utilize the internet. Therefore, *Brunson* fails to disclose that the computer network is the internet as required by Claim 2.

With respect to the rejection of independent Claim 8 under 35 U.S.C. §102(b) as being anticipated by *Brunson*, independent Claim 8 requires the step of inputting a product list of a merchant into merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant. However, nowhere does *Brunson* disclose the step of inputting a product list of the merchant into the merchant

information in the database wherein the product list has item information associated with items offered for sale by the merchant, as required by Claim 8. On the contrary, *Brunson* merely discloses that a determination is made whether the requested product/service has been located. If the requested product/service has been located, control continues to step S150. Moreover, on page 9 of the Final Rejection, the Examiner admits that *Brunson* does not expressly show inputting inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system. Clearly, by the Examiner's own admissions *Brunson* does not disclose the step of inputting merchant product lists into the database wherein the product list has item information associated with items offered for sale by the merchant as required by Claim 8.

Since *Brunson* fails to disclose the step of inputting a product list of the merchant into the merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant as required by Claim 8, Appellant asserts that the rejection of Claim 8 under 35 U.S.C. §102(b) is improper and should be reversed.

Claim 10 requires that the first access to the database is wireless. Nowhere does *Brunson* teach the step of inputting a

product list of the merchant into the merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant wherein the database is accessed wirelessly. Therefore, *Brunson* fails to disclose that the first access to the database is wireless.

Claim 11 requires the steps of providing a remote server and storing the database on the remote server. Nowhere does *Brunson* disclose steps of providing a remote server and storing the database on the remote server, as required by Claim 11. *Brunson* merely discloses that the kiosk 110, upon receipt of the product/service information request, forwards the request to a product/server database 300. *Brunson* further discloses that the product/server database 300 queries a data server appliance 310 and an application server appliance 320 to locate the requested information. Therefore, *Brunson* fails to disclose the steps of providing a remote server and storing the database on the remote server.

Claim 13 requires access from a remote computer terminal with respect to the database. Nowhere does *Brunson* disclose access from a remote computer terminal with respect to the database. *Brunson* merely discloses that the components of the electronic commerce system are combined into one or more dedicated devices or collocated on a particular node of a distributed network. Therefore, *Brunson* fails to disclose access from a remote computer

terminal with respect to the database as required by Claim 13.

Claim 18 requires that the item information includes geographical information associated with the item for sale by the merchant. Nowhere does *Brunson* disclose that the item information includes geographical information associated with the item for sale by the merchant. *Brunson* merely discloses that a user selects a particular mall within their county, chooses a category of store within the mall and selects a particular department store. Therefore, *Brunson* fails to disclose that the item information includes geographical information associated with the item for sale by the merchant.

In view of the foregoing, since *Brunson* fails to disclose the elements of independent Claim 8, the rejection of Claims 1, 2, 8-11, 13 and 18 under 35 U.S.C. §102(b) is improper and should be reversed.

**C. THE CITED REFERENCES AND REJECTIONS OF CLAIMS 3-5, 7, 12, 14, 15, 17, 19 AND 20 UNDER 35 U.S.C. §103(a)**

Dependent Claims 3-5, 7, 12, 14, 15, 17, 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Brunson* in view of *Pugliese*.

The Examiner stated:

Regarding Claims 3 and 5, *Brunson* teaches all of the above and further teaches a remote server wherein the database is contained on the remote server (see at least: Fig. 1). *Brunson*, however does not expressly teach a website providing access to the database. *Pugliese* teaches a shopper system for accessing merchant information via

carious portals such as a mall or in-store kiosk (see at least: abstract). *Pugliese* further teaches a website for providing access to the database (see at least: 0099, 0249).

Regarding Claims 4 and 12, *Brunson* teaches all of the above but does not expressly teach providing a second access to the database for modifying the merchant information in the database via the computer network. *Pugliese* teaches a shopper system for accessing merchant information via various portals such as mall or in-store kiosk (see at least: abstract). *Pugliese* further teaches providing a second access to the database for modifying the merchant information in the database via the computer network (see at least: 0332, 0334-0335, 0341).

Regarding Claims 5 and 14, *Brunson* teaches all of the above as noted but does not expressly teach providing a password for accessing the merchant information in the database via the computer system. *Pugliese* teaches providing a password for accessing the merchant information in the database via the computer system (see at least: 0032, 0334-0335, 0341).

Regarding Claims 7 and 17, *Brunson* teaches all of the above and further teaches uploading images in real-time to shoppers (see at least: Fig. 11). *Brunson*, however, does not expressly teach downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item. *Pugliese* teaches downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item (see at least: 0039, 0125, 0150, 0271, Fig. 15).

Regarding Claim 19, *Brunson* teaches all of the above and further teaches a user inputting information and performing a search based on the information (see at least: abstract). *Brunson*, however, does not expressly show inputting user information into the database via the computer system wherein the information is associated with the user and searching the product list in the

merchant information based on the user information. Pugliese teaches inputting user information into the database via the computer system wherein the information is associated with the user and searching the product list in the merchant information based on the user information (see at least: 0086, 0117, 0143, 0177-0179).

Regarding Claim 20, Brunson teaches all of the above and further teaches accessing product availability information (see at least: abstract). Brunson, however, does not expressly show inputting inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system. Pugliese teaches inputting inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system (see at least: 0099, 0126, 0140).

(See Final Rejection, page 6 of Exhibit A of the Evidence Appendix.)

**D. CLAIMS 3-5, 7, 12, 14, 15, 17, 19 and 20 WOULD NOT HAVE BEEN OBVIOUS TO ONE OF ORDINARY SKILL IN THE ART AT THE TIME OF APPELLANT'S INVENTION IN VIEW OF BRUNSON AND PUGLIESE,  
TAKEN SINGLY OR IN COMBINATION**

With respect to the rejection of Claims 3-5, 7, 12, 14, 15, 17, 19 and 20 under 35 U.S.C. §103(a) as being unpatentable over Brunson in view of Pugliese, Appellant respectfully submits that the claims distinctly define the present invention from Brunson and Pugliese, taken singly or in combination, for the reasons that follow.

Claim 3 requires a remote server wherein the database is

contained on the remote server; and a website providing access to the database. Nowhere do *Brunson* and *Pugliese*, taken singly or in combination, teach or suggest a remote server wherein the database is contained on the remote server; and a website providing access to the database. *Brunson* merely teaches that "the various components of the electronic commerce system 100 can be located at distant portions of a distributed network, such as a local area network, an intranet and/or the Internet, or within a dedicated electronic commerce system." On page 6 of the Final Rejection, the Examiner admits that *Brunson* does not expressly teach a website providing access to the database.

*Pugliese*, taken singly or in combination with *Brunson*, does not teach or suggest a remote server wherein the database is contained on the remote server; and a website providing access to the database. *Pugliese* merely teaches that "session gateway framework is a common gateway to exchange information between the ShopLive core application components and the merchants using the application." Furthermore, *Pugliese* merely teaches "[a] search engine [that] provides the ability for a shopper or SLA to search for malls, stores or products through a ShopLive search engine." Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests a remote server wherein the database is contained on the remote server; and a website providing access to the database.

Claim 4 requires a means for modifying the merchant information in the database. Nowhere do *Brunson* and *Pugliese*, taken singly or in combination, teach or suggest a means for modifying the merchant information in the database, as required by Claim 4. On page 7 of the Final Rejection, the Examiner admits that *Brunson* does not expressly teach providing a second access to the database for modifying the merchant information in the database via the computer network. *Pugliese* merely teaches a merchant administration system that is accessed by a system administrator to register and update merchant information for each store within a merchant, mall or Creation's location. Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests a means for modifying the merchant information in the database as required by Claim 4.

Claim 5 requires a password associated with the merchant for accessing the merchant information in the database. On page 7, the Examiner admits that *Brunson* does not expressly teach providing a password for accessing the merchant information in the database via the computer system. *Pugliese* merely teaches a "lost password processing function 2022 processes a request for a lost password from a shopper or merchant and then sends the password via email to the shopper as requested." Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests a password associated with the merchant for accessing the merchant

information in the database via the terminal, as required by Claim 5.

Claim 7 requires means of inputting an image associated with the item into the item information in the database; and means for accessing the image associated with the item in the database from the computer terminal. Neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests means of inputting an image associated with the item into the item information in the database; and means for accessing the image associated with the item in the database from the computer terminal. On page 7 of the Final Rejection, the Examiner admits that *Brunson* does not expressly teach downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item. *Pugliese* merely teaches that the Shoplive system may be equipped with a "video camera manipulation function 310 [to] provide[] the ability for a shopper to manipulate a video station camera via the internet." Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests means of inputting an image associated with the item into the item information in the database; and means for accessing the image associated with the item in the database from the computer terminal.

Claim 12 requires providing a second access to the database for modifying the merchant information in the database via the

computer network. Neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests a method providing a second access to the database for modifying the merchant information in the database via the computer network, as required by Claim 12. On page 7 of the Final Rejection, the Examiner admits that *Brunson* does not expressly teach providing a second access to the database for modifying the merchant information in the database via the computer network. *Pugliese* merely teaches a manage merchant profile function that "allows the merchant administrator to update the merchant profile information for a specific merchant location within the merchant administration system." *Pugliese* additionally teaches a merchant administration system that "manages the registration of merchants, locations and departments within mall properties as in store video stations." Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests the step of providing a second access to the database for modifying the merchant information in the database via the computer network as required by Claim 12.

Claim 14 requires the step of providing a password for accessing the merchant information in the database via the computer system. On page 7 of the Final Rejection, the Examiner admits that *Brunson* does not expressly teach providing a password for accessing the merchant information in the database via the computer system. On the contrary, *Pugliese* merely teaches a merchant administration

system with a manage merchant profile function that "allows the merchant administrator to update the merchant profile information for a specific merchant location." Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests the step of providing a password for accessing the merchant information in the database via the computer system as required by Claim 14.

Claim 15 requires the terminal accesses the database via a computer website on the computer network wherein the computer website is remote with respect to the database. On page 6 of the Final Rejection, the Examiner admits that *Brunson* does not expressly teach a website providing access to the database. *Pugliese* merely teaches that "a shopper signs into the ShopLive transaction gateway using the ShopLive Browser via the Internet, through a kiosk or by interacting with a Creation's touch pad or like entry devices." Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests the terminal accesses the database via a computer website on the computer network wherein the computer website is remote with respect to the database as required by Claim 15.

Claim 17 requires downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item. Neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests downloading an image into the item information of the item in the

database via the computer network wherein the image is associated with the item. On page 8 of the Final Rejection, the Examiner admits that *Brunson* does not expressly teach downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item.

*Pugliese* merely teaches:

Catalog access provides access to catalog information on both retail and a chain level for the shopper. The application access catalog data directly for the shopper or provides a common interface to the catalog information stored in external databases. This supports catalog content as text, images or video images as needed.

Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item as required by Claim 17.

Claim 19 requires the step of inputting user information into the database via the computer system wherein the user information is associated with the user; and searching the product list in the merchant information based on the user information. Neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests the step of inputting user information into the database via the computer system wherein the user information is associated with the user; and searching the product list in the merchant information based on the user information. On page 8 of the Final

Rejection, the Examiner admits that *Brunson* does not expressly teach inputting user information into the database via the computer system wherein the information is associated with the user and searching the product list in the merchant information based on the user information. *Pugliese* merely teaches that "ShopLive merchants are able to access the shopper profile information interactively during a shopping session to determine shopper preferences and allow them to serve the shopper better." Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests the step of inputting user information into the database via the computer system wherein the user information is associated with the user; and searching the product list in the merchant information based on the user information as required by Claim 19.

Claim 20 requires inputting an inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale; and modifying the inventory of the merchant via the computer system. Neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale; and modifying the inventory of the merchant via the computer system. On page 9 of the Final Rejection, the Examiner admits that *Brunson* does not expressly

teach inputting inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system. *Pugliese* merely teaches "inventory access [that] provides the ability to query catalog inventory availability at a store location level." Therefore, neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests inputting an inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale; and modifying the inventory of the merchant via the computer system as required by Claim 20.

One of ordinary skill in the art would never have been motivated to modify *Brunson* with *Pugliese* in the manner suggested by the Examiner in formulating the rejection of the claims under 35 U.S.C. §103(a). It is submitted that the question under §103(a) is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. *In re Simon*, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most, if not all, elements perform

their ordained and expected functions. The test is whether the invention as a whole, in light of the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Appellant's system and method for locating an item offered for sale by a merchant. A teaching, suggestion, or incentive must exist to make the combination made by Appellant. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

Moreover, a motivation to combine does not exist merely because references are analogous art, as alleged by the Examiner. The references must expressly or impliedly suggest the claimed invention, or the Examiner must present a convincing line of reasoning as to why the appellant would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

With the analysis of the deficiencies of *Brunson* and *Pugliese* in mind, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Brunson* and *Pugliese* to produce the claimed invention. Further, Appellant submits that the Examiner is

merely "piece-mealing" references together, providing various teachings and positively defined limitations of Appellant's system and method for locating an item offered for sale by a merchant to deprecate the claimed invention. Of course, hindsight reconstruction of Appellant's invention is impermissible. Therefore, *prima facie* obviousness has not been established by the Examiner as required under 35 U.S.C. §103(a).

In view of the foregoing, since neither *Brunson* nor *Pugliese*, taken singly or in combination, teaches or suggests the structural elements and novel steps of Claims 3-5, 7, 12, 14, 15, 17, 19 and 20, the rejection of Claims 3-5, 7, 12, 14, 15, 17, 19 and 20 under 35 U.S.C. §103(a) is improper and should be reversed.

**E. THE CITED REFERENCES AND REJECTIONS OF  
CLAIMS 6 AND 16 UNDER 35 U.S.C. §103(a)**

Claims 6 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Brunson* in view of *Look*.

In the Final Rejection, the Examiner stated:

Regarding Claims 6 and 16, *Brunson* teaches all of the above as noted and further teaches locating a product (see at least: abstract). *Brunson*, however, does not expressly teach displaying an electronic map wherein the location of the merchant associated with the item information is displayed on the electronic map. *Look* teaches displaying an electronic map wherein the location of the merchant associated with the item information is displayed on the electronic map (see at least: Page 1).

(See Final Rejection, page 10 of Exhibit D of the Evidence Appendix.)

**F. CLAIMS 6 AND 16 WOULD NOT HAVE BEEN OBVIOUS TO ONE OF  
ORDINARY SKILL IN THE ART AT THE TIME OF APPELLANT'S INVENTION  
IN VIEW OF BRUNSON AND LOOK, TAKEN SINGLY OR IN COMBINATION**

With respect to the rejection of Claims 6 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Brunson* in view of *Look*, Appellant respectfully submits that the claims distinctly define the present invention from *Brunson* and *Look*, taken singly or in combination, for the reasons that follow.

Claim 6 requires an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map. Nowhere do *Brunson* and *Look*, taken singly or in combination, teach or suggest an electronic map that displays a merchant location associated with the item sought as required by Claim 6. On page 10 of the Final Rejection, the Examiner admits that "*Brunson*, however, does not expressly teach displaying an electronic map wherein the location of the merchant associated with the item is displayed on the electronic map." *Look* merely teaches a screen that "displays an animated map showing your location and how to get to the store." *Look* teaches a "touch screen kiosk at a mall." Therefore, neither *Brunson* nor *Look*, taken singly or in combination, teaches or suggests an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map as required by Claim 6.

Claim 16 requires the step of displaying the location of the merchant in the multi-dealer retail establishment on a map wherein the map is associated with the multi-dealer retail establishment. Neither *Brunson* nor *Look*, taken singly or in combination, teaches or suggests the step of displaying the location of the merchant in the multi-dealer retail establishment on a map wherein the map is associated with the multi-dealer retail establishment as required by Claim 16. On page 10 of the Final Rejection, the Examiner admits that "*Brunson*, however, does not expressly teach displaying an electronic map wherein the location of the merchant associated with the item is displayed on the electronic map." *Look* merely teaches a screen that "displays an animated map showing your location and how to get to the store." Therefore, neither *Brunson* nor *Look*, taken singly or in combination, teaches or suggests the step of displaying the location of the merchant in the multi-dealer retail establishment on a map wherein the map is associated with the multi-dealer retail establishment as required by Claim 16.

With respect to the rejection of Claims 6 and 16 under 35 U.S.C. §103(a), one of ordinary skill in the art would never have been motivated to modify *Brunson* with *Look* in the manner suggested by the Examiner in formulating the rejection of the claims under 35 U.S.C. §103(a). It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. *In re*

*Simon*, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most, if not all, elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of the teachings of the references in their entireties, would have been obvious to one of ordinary skill in the art at the time the invention was made. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Appellant's system and method for locating an item offered for sale by a merchant. A teaching, suggestion, or incentive must exist to make the combination made by Appellant. *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

Moreover, a motivation to combine does not exist merely because references are analogous art, as alleged by the Examiner. The references must expressly or impliedly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the appellant would have found the claimed invention to have been obvious in light of the teachings of the references. *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

With the analysis of the deficiencies of *Brunson* and *Look* in

mind, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Brunson* and *Look* to produce the claimed invention. Further, Appellant submits that the Examiner is merely "piece-mealing" references together, providing various teachings and positively defined limitations of Appellant's system and method for locating an item offered for sale by a merchant to deprecate the claimed invention. Of course, hindsight reconstruction of Appellant's invention is impermissible. Therefore, *prima facie* obviousness has not been established by the Examiner as required under 35 U.S.C. §103(a).

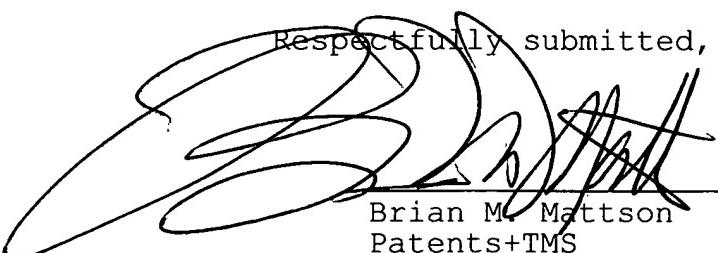
In view of the foregoing, since *Brunson* and *Look*, taken singly or in combination, fail to teach or suggest the elements of Claims 6 and 16, the rejection of Claims 6 and 16 under 35 U.S.C. §103(a) is improper and should be reversed.

CONCLUSION

For the foregoing reasons, Appellant respectfully submits that the rejection of Claims 1-20 is erroneous as a matter of law and fact and respectfully requests the Board to reverse the rejection.

Respectfully submitted,

(Reg. No. 35,018)

  
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## VIII. CLAIMS APPENDIX

1. A system for determining a location of an item offered for sale by a merchant in a multi-dealer retail establishment, the system comprising:

a computer network;

a database associated with the computer network;

means for inputting merchant information into the database wherein the merchant information is associated with a location of the merchant in the multi-dealer retail establishment;

means for inputting item information in the merchant information wherein the item information is associated with a description of the item and a price of the item; and

a computer terminal located in the multi-dealer retail establishment wherein the computer terminal connects to the computer network and enables access to the item information and the merchant information and further wherein the computer terminal is remote with respect to the database and determines the location of the item in the multi-dealer retail establishment by searching the item information in the database wherein the item information is associated with the location of the merchant in the multi-dealer retail establishment.

2. The system of Claim 1 wherein the computer network is the internet.

3. The system of Claim 1 further comprising:

a remote server wherein the database is contained on the remote server; and

a website providing access to the database.

4. The system of Claim 1 further comprising:

means for modifying the merchant information in the database.

5. The system of Claim 1 further comprising:

a password associated with the merchant for accessing the merchant information in the database.

6. The system of Claim 1 further comprising:

an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map.

7. The system of Claim 1 further comprising:

means for inputting an image associated with the item into the item information in the database; and

means for accessing the image associated with the item in the database from the computer terminal.

8. A method for locating an item offered for sale by a merchant in a multi-dealer retail establishment by a user wherein the merchant has a location within the multi-dealer retail establishment, the method comprising the steps of:

providing a computer network;

providing a database connected to the computer network wherein the database stores merchant information associated with the

merchant and further wherein the merchant information has the location of the merchant within the multi-dealer retail establishment;

inputting a product list of the merchant into the merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant;

providing a terminal in the multi-dealer retail establishment wherein the terminal access the database for displaying the merchant information of the merchant in the database via the computer network wherein the terminal is only accessible at the multi-dealer retail establishment;

searching the product list in the merchant information based on the item information associated with the item; and

determining the location of the merchant in the multi-dealer retail establishment based on the merchant information associated with the item information in the product list wherein the terminal displays the location of the item in the multi-retail establishment based on the merchant information.

9. The method of Claim 8 wherein the computer network is the internet.

10. The method of Claim 8 wherein the first access to the database is wireless.

11. The method of Claim 8 further comprising the steps of:  
providing a remote server; and

storing the database on the remote server.

12. The method of Claim 8 further comprising the step:

providing a second access to the database for modifying the merchant information in the database via the computer network.

13. The method of Claim 8 wherein the first access is from a remote computer terminal with respect to the database.

14. The method of Claim 8 further comprising the step of:

providing a password for accessing the merchant information in the database via the computer system.

15. The method of Claim 8 wherein the terminal accesses the database is via a computer website on the computer network wherein the computer website is remote with respect to the database.

16. The method of Claim 8 further comprising the step of:

displaying the location of the merchant in the multi-dealer retail establishment on a map wherein the map is associated with the multi-dealer retail establishment.

17. The method of Claim 8 further comprising the step of:

downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item.

18. The method of Claim 8 wherein the item information includes geographical information associated with the item for sale by the merchant.

19. The method of Claim 8 further comprising the steps of:

inputting user information into the database via the computer system wherein the user information is associated with the user; and

searching the product list in the merchant information based on the user information.

20. The method of Claim 8 further comprising the steps of:

inputting an inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale; and

modifying the inventory of the merchant via the computer system.

**IX. EVIDENCE APPENDIX**

EXHIBIT A: Final Rejection dated May 18, 2006

EXHIBIT B: *Brunson* (U.S. Patent Application Publication No. 2001/0034664). Exhibit B was entered into the record by the Examiner in the Final Rejection dated May 18, 2006.

EXHIBIT C: *Pugliese, III et al.* (U.S. Patent Application Publication No. 2001/0044751). Exhibit C was entered into the record by the Examiner in the Final Rejection dated May 18, 2006.

EXHIBIT D: *Crossman, Craig.* "Look, Listen and Interact with Multimedia." *Austin American Statesman* March 21, 1994, Page D6. (Recovered from Proquest Database 11-05-2006). Exhibit D was entered into the record by the Examiner in the Final Rejection dated May 18, 2006.

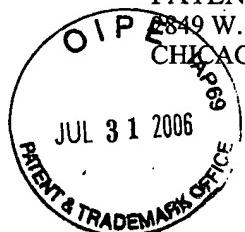


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,890	02/04/2004	Hobie Reber	HOB-P-04-001	3879
29013	7590	05/18/2006		

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EXAMINER

ALLEN, WILLIAM J.

ART UNIT

PAPER NUMBER

3625

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Office Action Summary	Application No.	Applicant(s)
	10/771,890	REBER, HOBIE
	Examiner	Art Unit
	William J. Allen	3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 March 2006.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |



## DETAILED ACTION

### *Prosecution History Summary*

Claims 1-20 are pending in the application.

Claims 1, 6, 8, 15, and 19 have been amended.

### *Response to Amendment*

Applicant's amendment to claim 19 has been acknowledged and the objection withdrawn.

### *Response to Arguments*

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1-2, 8-11, 13, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Brunson (US 2001/0034664).**

**Regarding claim 8,** Brunson teaches:

*providing a computer network (see at least: abstract, Fig. 1);*  
*providing a database connected to the computer network wherein the database stores merchant information associated with the merchant and further wherein the merchant information has the location of the merchant within the multi-dealer retail establishment (see at least: abstract, 0007, 0029, 0038, Fig. 1, 3-11);*  
*inputting a product list of the merchant into the merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant (see at least: abstract, 0007, 0029, 0038);* The Examiner notes that the product server database contains information on products available from various retailer (i.e. a list of products available at the different retailers);  
*providing a terminal in the multi-dealer retail establishment wherein the terminal access the database for displaying the merchant information of the merchant in the database via a computer network wherein the terminal is only accessible at the multi-*

*dealer retail establishment* (see at least: abstract, 0007, 0027, Fig. 1, 10-11); The Examiner notes that the kiosk may be located in many venues such as a shopping mall (i.e. *multi dealer establishment*) wherein the kiosk is only accessible in that venue (e.g. the user may only access the shopping mall kiosk while in the shopping mall).

*searching the product list in the merchant information based on item information associated with the item* (see at least: abstract).

*determining the location of the merchant in the multi-dealer retail establishment based on the product list wherein the terminal displays the location of the item in the multi-retail establishment based on the merchant information* (see at least: abstract, 0007, 0035, 0038, Fig. 10-12). The Examiner notes that, based on the input criteria such as a specific product, the system determines a retailer (i.e. a *merchant location* in the shopping mall) for that specific product. Additionally, the interfaces used display the results (i.e. product location for a product location search) on display 130 of Figure 1.

**Regarding claims 9-11,** Brunson teaches:

(9) *wherein the computer network is the internet* (see at least: 0030);  
(10) *wherein the first access to the database is wireless* (see at least: 0031);  
(11) *providing a remote server and storing the database on the remote server*  
(see at least: Fig. 1).

**Regarding claim 13,** Brunson teaches *wherein the first access is from a remote computer terminal with respect to the database* (see at least: abstract, Fig. 1).

**Regarding claim 18,** Brunson teaches *wherein the item information includes geographic information associated with the item for sale by the merchant* (see at least: abstract, ). The Examiner notes that returning a product location from the database constitutes returning *geographic information* on the product.

**Regarding claims 1 and 2,** the limitations set forth in claims 1 and 2 closely parallel the limitations of claims 8 and 9. Claims 1 and 2 are thereby rejected under the same rationale.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 3-5, 7 12, 14-15, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunson in view of Pugliese III et al (US 2001/0044751, herein referred to as Pugliese).**

**Regarding claims 3 and 15,** Brunson teaches all of the above and further teaches a *remote server wherein the database is contained on the remote server* (see at least: Fig. 1). Brunson, however, does not expressly teach a *website providing access to the database*. Pugliese teaches a shopper system for accessing merchant information via various portals such as a mall or in-store kiosk (see at least: abstract). Pugliese further teaches a *website for providing access to the database* (see at least: 0099, 0249). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Brunson to have included *providing a second access to the database for modifying the merchant information in the database via the computer network* as taught by Pugliese in order to provide a system that supports existing merchants and malls to better serve customer by providing easy access to merchandise and sales assistance (see at least: Pugliese, abstract).

**Regarding claims 4 and 12,** Brunson teaches all of the above but does not expressly teach *providing a second access to the database for modifying the merchant information in the database via the computer network.* Pugliese teaches a shopper system for accessing merchant information via various portals such as a mall or in-store kiosk (see at least: abstract). Pugliese further teaches *providing a second access to the database for modifying the merchant information in the database via the computer network* (see at least: 0332, 0334-0335, 0341). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Brunson to have included *providing a second access to the database for modifying the merchant information in the database via the computer network* as taught by Pugliese in order to provide a system that supports existing merchants and malls to better serve customer by providing easy access to merchandise and sales assistance (see at least: Pugliese, abstract).

**Regarding claims 5 and 14,** Brunson teaches all of the above as noted but does not expressly teach *providing a password for accessing the merchant information in the database via the computer system.* Pugliese teaches *providing a password for accessing the merchant information in the database via the computer system* (see at least: 0332, 0334-0335, 0341). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Brunson to have included *providing a password for accessing the merchant information in the database via the computer system* as taught by Pugliese in order to provide a system that supports

existing merchants and malls to better serve customer by providing easy access to merchandise and sales assistance (see at least: Pugliese, abstract).

**Regarding claims 7 and 17**, Brunson teaches all of the above and further teaches uploading images in real-time to shoppers (see at least: Fig. 11). Brunson, however, does not expressly teach *downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item*. Pugliese teaches *downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item* (see at least: 0039, 0125, 0150, 0271, Fig. 15). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Brunson to have included *downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item* as taught by Pugliese in order to provide a system that supports existing merchants and malls to better serve customer by providing easy access to merchandise and sales assistance (see at least: Pugliese, abstract).

**Regarding claim 19**, Brunson teaches all of the above and further teaches a user inputting information and performing a search based on the information (see at least: abstract). Brunson however does not expressly show inputting user information *into the database via the computer system wherein the information is associated with the user and searching the product list in the merchant information based on the user*

*information.* Pugliese teaches inputting user information *into the database via the computer system wherein the information is associated with the user and searching the product list in the merchant information based on the user information* (see at least: 0086, 0117, 0143, 0177-0179). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Brunson to have included inputting user information *into the database via the computer system wherein the information is associated with the user and searching the product list in the merchant information based on the user information* as taught by Pugliese in order to provide a system that supports existing merchants and malls to better serve customer by providing easy access to merchandise and sales assistance (see at least: Pugliese, abstract).

**Regarding claim 20,** Brunson teaches all of the above and further teaches accessing product availability information (see at least: abstract). Brunson, however, does not expressly show *inputting inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system.* Pugliese teaches *inputting inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system* (see at least: 0099, 0126, 0140). It would have been obvious to one of ordinary

skill in the art at the time of invention to have modified the invention of Brunson to have included *inputting inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system* as taught by Pugliese in order to provide a system that supports existing merchants and malls to better serve customer by providing easy access to merchandise and sales assistance (see at least: Pugliese, abstract).

**5. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunson in view of PTO 892 reference u (herein referred to as 892u).**

**Regarding claims 6 and 16,** Brunson teaches all of the above as noted and further teaches locating a product (see at least: abstract). Brunson, however, does not expressly teach *displaying an electronic map wherein the location of the merchant associated with the item information is displayed on the electronic map.* 892u teaches *displaying an electronic map wherein the location of the merchant associated with the item information is displayed on the electronic map* (see at least: Page 1). It would have been obvious to one of ordinary skill in the art to have modified the invention of Brunson to have included *displaying an electronic map wherein the location of the merchant associated with the item information is displayed on the electronic map* as taught by 892u in order to provide an easy, interactive means for displaying an animated map directing a customer to a particular store (see at least: 892u, Page 1).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US 4,982,346 discloses a mall promotion network apparatus and method
- 892v discloses displaying a map in a mall with the location of a merchant and item

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

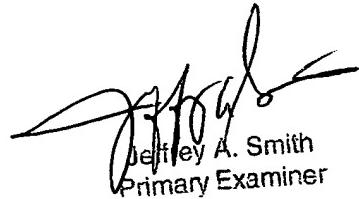
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Allen whose telephone number is (571) 272-1443. The examiner can normally be reached on 8:00 AM to 5:30 PM.

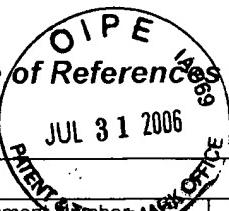
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on (571) 272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

William J. Allen  
Patent Examiner  
May 11, 2006



Jeffrey A. Smith  
Primary Examiner

	Application/Control No.	Applicant(s)/Patent Under Reexamination	
	10/771,890	REBER, HOBIE	
Examiner	Art Unit		
William J. Allen	3625	Page 1 of 1	

#### U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2001/0034664	10-2001	Brunson, Jonathan E.	705/26
*	B	US-2001/0044751	11-2001	Pugliese et al.	705/26
*	C	US-4,982,346	01-1991	Girouard et al.	705/14
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

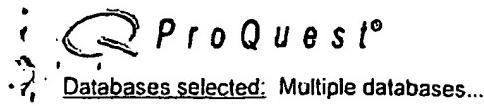
#### FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

#### NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Crossman, Craig. "Look, listen and interact with multimedia". Austin American Statesman. Austin, Tex: Mar 21, 1994. pg. D.6. [recovered from Proquest database 11-05-2006].
	V	Mowry, Lindsay. "Shopping Destination: West Village, Buckhead Upscale commercial district has residential feel". The Atlanta Journal Constitution. Atlant, Ga: Oct 29, 1998. pg. BE.12. [recovered from Proquest database 11-05-2006].
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



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## Look, listen and interact with multimedia; [FINAL Edition]

*Craig Crossman. Austin American Statesman. Austin, Tex.: Mar 21, 1994. pg. D.6*

Author(s): Craig Crossman

Section: BUSINESS

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### Abstract (Document Summary)

This interaction is all part of the multimedia concept. Games and other forms of computer entertainment rely heavily on multimedia to make the experience seem more lifelike.

Drawing from several of the most popular multimedia development programs, such as Action! and Compell, it shows how multimedia can be used in a variety of ways, such as House Finder and Garden Center.

Using multimedia to teach multimedia is a natural. With Professor Multimedia offering lessons at your own pace, you'll come away with a better understanding of this technology and all the wonderful things it offers.

### Full Text (400 words)

*Copyright Austin American Statesman Mar 21, 1994*

There are many programs that claim they use multimedia, but each one is different. What exactly is multimedia, and how can you use it?

The generally accepted definition: a program that's able to use different media to convey messages and ideas.

In this case, the term "media" is defined as a single method of revealing information. For example, on the screen you see visual media; from the speakers you hear sound media.

Each can be broken down further. For example, visual media can be displayed as full-motion video, drawn animation or still images. Examples of sound media include spoken words, music or sound effects, such as birds chirping or a car engine roaring.

Combining some or all of these to convey an idea - be it a sales presentation or an educational lesson - is at the heart of multimedia.

Another element is interaction. You probably have seen one of those touch screens in a kiosk at a mall. Touching the screen might start a small video window in which a salesperson points out where you can buy selected products, while another portion of the screen displays an animated map showing your location and how to get to the store. It may even print out a discount coupon to encourage a sale.

This interaction is all part of the multimedia concept. Games and other forms of computer entertainment rely heavily on multimedia to make the experience seem more lifelike.

If you would like to learn more and experience multimedia on your computer, an interesting product called Professor Multimedia, from Individual Software, offers a wide variety of multimedia presentations.

Drawing from several of the most popular multimedia development programs, such as Action! and Compell, it shows how multimedia can be used in a variety of ways, such as House Finder and Garden Center.

In the same way that you see movie trailers in the theaters, Professor offers samplings from several popular multimedia programs such as Microsoft's Dinosaurs; Broderbund's Arthur's Teacher Trouble, an educational program for young children;

and The Total Heart from the Mayo Clinic.

Using multimedia to teach multimedia is a natural. With Professor Multimedia offering lessons at your own pace, you'll come away with a better understanding of this technology and all the wonderful things it offers.

Available only for IBM-compatible computers running Windows, Professor Multimedia sells for \$79.95.

For more information, contact Individual Software at (800) 331-3313 or (510) 734-6767.

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**X. RELATED PROCEEDINGS APPENDIX**

None

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